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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition to Authorize Co-Primary)
Sharing of the 450 MHz Air-Ground)
Radiotelephone Service with BETRS)

RM-8159

To: The Commission:

REPLY COMMENTS OF
MOBILE TELECOMMUNICATION TECHNOLOGIES, CORP.

Mobile Telecommunication Technologies, Corp. ("Mtel"), by its attorneys and pursuant to Commission Rule Section 1.405, hereby submits its Reply Comments ("Reply Comments") in response to the comments filed in connection with the above referenced Petition for Rulemaking ("Petition") filed November 9, 1992.^{1/}

By these Reply Comments, Mtel expresses its continued opposition to the institution of a rulemaking proceeding that would permit Basic Exchange Telecommunications Radio Service ("BETRS") to be provided on a co-primary basis with the Public Land Mobile Service air-ground radiotelephone service in the 450 MHz band. Mtel's position in this regard is bolstered by the fact that not a single party which filed comments in support of the Petition could justify the expropriation of the 450 MHz air-ground band. For the reasons set forth below, Mtel submits that no substantial basis exists for allocation of additional frequencies to BETRS, and certainly not frequencies already

^{1/} Pursuant to the Public Notice, Report No. 1923 (January 8, 1993), comments on the Petition were due on February 8, 1993, and pursuant to Commission Rule Section 1.405(b), reply comments to statements in support of or opposition to the Petition are due by February 23, 1993. Thus, these reply comments are timely filed.

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allocated in the 450 MHz band for the provision of air-ground service.

**I. The Comments Filed In This Proceeding Fail To
Support The Petitioner's Request For Rulemaking**

In its comments, Mtel submitted that the Petitioners failed to demonstrate an adequate need to invade the widely used air-ground allocation. Mtel also observed that numerous other options exist for the enhancement of BETRS. Neither of these positions were meaningfully disputed in the comments filed in this proceeding.

Rather, based upon a review of the comments, it appears that the Petitioners made a concerted effort to have parties file comments in support of their cause. This is illustrated by the fact that, of the sixteen various parties who filed comments in support of the co-primary sharing of 450 MHz air-ground service with BETRS, twelve of those comments are brief, almost identical "cookie cutter" comments that merely echo Petitioners' initial arguments.^{2/}

^{2/} This is evidenced by the identical language found in the two paragraphs which constitute the bulk of these comments. The parties filing these "cookie cutter" comments include the Fairbanks Municipal Utilities System, the City of Ketchikan, Alaska d/b/a Ketchikan Public Utilities, the Ronan Telephone Company, the Haviland Telephone Company, the Universal Service Telephone Company, Nicholville Telephone Company, United Utilities, Inc., the Ponderosa Telephone Co., the San Marcos Telephone Company, Inc., Century Telephone of Arkansas, Inc., the California-Oregon Telephone Co., and Carlson Communications, Inc. It certainly appears that one set of these comments was prepared and transmitted to different parties in an attempt to have them file comments in support of the Petitioner's request.

Of these "cookie cutter" comments, not one of them presented any evidence that disputes Mtel's basic contention that other options exist for BETRS. It appears that most of the BETRS providers which submitted supporting comments provide service in areas which lie more than 100 miles from the top 54 Metropolitan Statistical Areas ("MSAs"). Thus, these commenters have a distinct option available to them in that they may provide service in the private land mobile 800 MHz spectrum.

Those commenters that support Petitioners' proposal and did not file the near-identical comments are comprised principally of manufacturers of 450 MHz BETRS systems and engineering firms which work on BETRS systems.^{3/} These parties' self serving motives for filing supporting comments are transparent. Plainly, they stand to reap a financial windfall if Petitioners are successful regardless of the harm done to the public interest through the degradation of air-ground services.^{4/}

^{3/} The remaining four parties which filed comments in support of the Petition include Milford Engineering Corp., InterDigital Corporation ("InterDigital"), Alcatel Network Systems, Inc. ("ANS") and Southwestern Bell Telephone Company.

^{4/} It should be noted that two of the BETRS equipment manufacturer commenters, ANS and Interdigital through their predecessors, previously supported an unsuccessful bid to obtain more spectrum in a very similar proceeding. However the Commission decided then as it must in this proceeding that an additional discrete portion of the spectrum has not been shown to be necessary to the goal of universal BETRS service. See Basic Exchange Telecommunications Radio Service (Reconsideration), 4 FCC Rcd 5017 (1989).

II. Other Proposals Presented Lack Support For Grant of Petition

Mtel takes issue with ANS's proposition that the Commission should go one step further than the Petitioners' request and reallocate the 450 MHz air-ground spectrum exclusively to BETRS. This proposal is both substantively and procedurally defective. Apparently, ANS lacks a full understanding of the provision of air-ground service for it to submit that the users of the 450 Mhz air-ground should be moved to the other air-ground frequencies in the 800 MHz band. ANS clearly fails to understand the difference in the types of communications services provided for passengers of commercial airliners in the 800 MHz spectrum and those provided to passengers of private aircraft in the 450 MHz. Mtel would direct ANS's attention to the comments filed by Mtel and the NBAA for clarification of this misconception.

Further, ANS's request is fundamentally distinct from the Petitioners' and this proceeding is not the proper forum for such a request. In order to properly present its request for complete usurpation of the 450 MHz band air-ground frequencies to the Commission, ANS must file a separate petition for rulemaking. However, it is unlikely to meet with much success due to the considerable public demand and vital necessity of air-ground communications.

Interdigital submits that much interference exists in the 450 MHz band due to unrestricted one-way use of the spectrum by paging companies. Interdigital's argument presents another

possible option for the alleviation of possible congestion in the BETRS spectrum. Both the Petitioners' and the public's interest would be better served by Petitioners turning their energies toward removing these pagers from the BETRS frequencies.

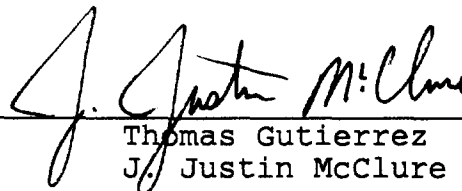
III. Conclusion

For the reasons set forth above, Mtel submits that no justifiable reason exists for grant of the Petitioners' request. Mtel supports BETRS but suggests that all options available be explored before the Commission institutes a rulemaking proceeding in this matter. Mtel requests the Commission to dismiss or deny the Petition and protect the public interest by supporting the continuing provision of 450 MHz air-ground service.

Respectfully submitted,

MOBILE TELECOMMUNICATION
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By



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February 23, 1993

CERTIFICATE OF SERVICE

I, Katherine A. Baer, a secretary in the law firm of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have on this 23rd day of February, 1993, sent by first class United States mail copies of the foregoing STATEMENT OF OPPOSITION TO PETITION FOR PROPOSED RULEMAKING to the following:

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